

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ROBERT JEFFREY FARMER,

Petitioner,

vs.

E.K. McDANIEL, *et al.*,

Respondents.

3:09-cv-0379-RCJ -RAM

**ORDER**

This action is a petition for a writ of habeas corpus by Robert Jeffrey Farmer, a Nevada prisoner. This court ruled against Farmer in an order entered on April 20, 2010 (ECF No. 28), and the judgment denying Farmer relief was entered the same day (ECF No. 29). On August 3, 2010, the court denied Farmer's motion to alter or amend the judgment (ECF No. 33).

Farmer appealed, and, on February 7, 2012, the court of appeals filed an order affirming this court's denial of Farmer's habeas corpus petition (ECF No. 36).

On September 5, 2012, while a petition by Farmer for rehearing en banc was pending, the court of appeals issued an order stating that the court was advised that Farmer had died in prison on April 24, 2012; the court of appeals vacated its February 7, 2012 order, and dismissed the appeal as moot. Order of the Court of Appeals filed September 5, 2012 (ECF No. 39). The court of appeals

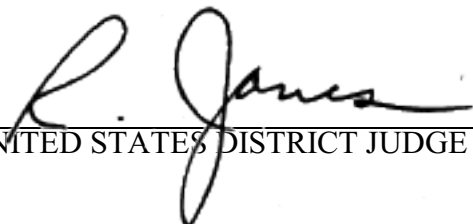
1 remanded the case to this court “for dismissal of the petition for a writ of habeas corpus as moot and  
2 for further proceedings as may be required, including the vacatur of any prior orders.” *Id.*

3 As Farmer died before he was able to complete the appellate process, this court’s  
4 April 20, 2010, judgment did not, and now cannot, become final; this court will, therefore, vacate its  
5 orders entered April 20, 2010 (ECF No. 28), and August 3, 2010 (ECF No. 33), as well as the  
6 judgment entered April 20, 2010 (ECF No. 29). Furthermore, the court will dismiss the action as  
7 moot, and order judgment entered accordingly. *See Garceau v. Woodford*, 399 F.3d 1101 (9th Cir.  
8 2005); *Griffey v. Lindsey*, 349 F.3d 1157 (9th Cir. 2003).

9 **IT IS THEREFORE ORDERED** that the orders entered on April 20, 2010 (ECF No. 28)  
10 and August 3, 2010 (ECF No. 33), and the judgment entered on April 20, 2010 (ECF No. 29), are  
11 **VACATED**.

12 **IT IS FURTHER ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE**,  
13 as moot, on account of the death of the petitioner, and the Clerk of the Court shall **ENTER**  
14 **JUDGMENT ACCORDINGLY**.

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16 Dated this 10th day of September, 2012.

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19 UNITED STATES DISTRICT JUDGE  
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